

**APPLICATION GRANTED****SO ORDERED****VERNON S. BRODERICK****U.S.D.J.** 4/27/2023

Defendants shall respond to Plaintiff's Complaint by May 24, 2023.

**HON. SYLVIA O. HINDS-RADIX**  
*Corporation Counsel*

**THE CITY OF NEW YORK  
LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, NY 10007

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April 24, 2023

**VIA ECF**

Honorable Vernon S. Broderick  
District Court Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *John Zippo v. City of New York et al.*, 23-CV-00865 (VSB)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and attorney for defendant City of New York ("City") in the above referenced matter. In that capacity, defendant City writes to respectfully request a thirty (30) day enlargement of time, from April 25, 2023 until May 25, 2023, to answer or otherwise respond to the complaint. This is the City's second request for an enlargement of time to respond to the complaint. Plaintiff's counsel, Rob Rickner, indicated that plaintiff consents to this request as long as defendants consent to plaintiff's anticipated motion for a stay.<sup>1</sup>

By way of background, plaintiff brings this action, pursuant to 42 U.S.C. § 1983, alleging *inter alia* deliberate indifference to prisoner safety and/or medical needs, negligence, and intentional infliction of emotional distress. More specifically, plaintiff alleges that in January 2022 and December 2022, while he was in New York City Department of Correction ("DOC") custody, he was threatened and assaulted by other inmates due to defendants' purported actions, or lack thereof, and that the defendants purportedly failed to provide him with adequate protection. As a result, plaintiff claims that he sustained serious physical injuries, including broken bones in his face, a broken hand, brain injury, and bruises all over his body. In addition to

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<sup>1</sup> The undersigned was advised by plaintiff's counsel, Rob Rickner, today, that plaintiff recently passed away and that plaintiff will be filing a suggestion of death with a stay, however, there is no such entry on the docket at this time. In response, defendants' indicated that defendants consent to a stay for pleadings and discovery but not for the ninety day time period applicable to the suggestion of death. As such, defendants anticipate filing a suggestion of death shortly.

the City, plaintiff also identifies DOC officers Captain Smart, Captain Davis, Captain Jeffries, Captain Matheus, CO Washington, CO Valdez, CO Lee, CO Tittle, CO Vasquez, and a number of John Does as defendants. On February 3, 2023, the City was served with the summons and complaint, however, upon information and belief, and upon a review of the docket sheet in this matter, to date, none of the individual defendants have been served.

The reason for this request is, to date, we are not yet in possession of the documents regarding the underlying incidents. The additional time should provide sufficient time to obtain and review the relevant files and thereafter respond to the complaint with adequate information.

For the reasons set forth above, defendant City respectfully requests a thirty (30) day enlargement of time until May 25, 2023 to answer or otherwise respond to the complaint.

Thank you for your consideration of the instant application.

Respectfully submitted,

Thomas Lai/  
Thomas Lai  
Senior Counsel  
Special Federal Litigation Division

To: **VIA ECF**  
Stephanie Panousieris  
*Attorney for Plaintiff*